

REMARKS

Claims 1-2 and 4-7 are pending and under consideration in the above-identified application. Claim 3 was previously cancelled.

In the Final Office Action dated March 12, 2010, the Examiner rejected claims 1-2 and 4-7.

With this Amendment, claims 1 and 5 were amended and claims 2 and 7 were cancelled. No new matter has been introduced as a result of the amendments.

I. 35 U.S.C. § 103 Obviousness Rejection of Claims

Claims 1 -2 and 5-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Oesten et al. (US 2001/0046628 A1) in view of Kawai et al. (U.S. Publication No. 2003 0152839) and Spitler et al. (US 2004/0197657).

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Oesten et al., Kawai et al., and Spitler et al. in view of Naruoka et al. (U.S. Patent No. 6,893,766).

Applicants respectfully traverse each of the above listed rejections.

Claims 1 and 5 require a coating layer that is adhered to the entire outer surface of an inner particle. The coating layer is a homogeneous lithium-titanium compound that has a single phase of polycrystalline spinel. Specification, pages 4-5. Claims 1 and 5 also require specific weight ratios of first compound oxide to the second compound oxide. Specifically, for claim 1, the weight ratio is between 96:4 and 65:35, and in claim 5 the inner particle compound and the coating layer compound are mixed in a 90:10 weight ratio.

Oesten et al. teaches a weight ratio of alkali metal to lithium mixed oxide particles is from 0.01 to 10% and the weight ratio of the coating metal oxide to the lithium mixed oxide particles is from 0.01 to 20%. Office Action, page 4. The Examiner argues that the weight ratios

required by the claims would have been obvious in light of these teachings. However, Oesten et al. teaches the weight ratios for different materials than those required by the claims. Specifically, Oesten et al. teaches a weight ratio for a coating that is a mixture of alkali metal compounds and metal oxides. Oesten, [0033]. This coating, as acknowledged by the Examiner, is not the same as the coating required by the claims, which is a spinel structure in the cubic system selected from the group consisting of $\text{Li}_4\text{Ti}_5\text{O}_{12}$, Li_2TiO_3 , $\text{Li}_2\text{Ti}_3\text{O}_7$ and $\text{Li}_4\text{Ti}_{4.90}\text{Mn}_{0.10}\text{O}_{12}$. A range can only be optimized when the “general conditions of a claim are disclosed by the prior art.” *In re Aller*, 220 F.2d 454, 456 105 USPQ 233 (CCPA 1955). Here, Oesten et al. does not disclose the same conditions as the claims, because the weight ratio disclosed by Oesten et al. is for a coating that is different from the coating required by the claims. As such, the range required by the claim is not obvious in light of Oesten et al.

Thus, taken singularly or in combination with each other, the above cited references fail to either teach or even fairly suggest the required elements of independent claims 1 and 5. As such, claims 1 and 5 are patentable over the cited references, as are dependent claims 4 and 6 for at least the same reasons. Accordingly, Applicant respectfully requests the above rejections be withdrawn.

II. Conclusion

In view of the above amendments and remarks, Applicant submits that all claims are clearly allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

Respectfully submitted,

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